



Group 120  
Art Unit 121  
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**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

September 28, 1989

**PATENT DEPARTMENT RECEIVED**

OCT 03 1989  
ROUTE TO JTM  
COMMENTS

Case 2206

In re application of:  
Frank J. Vilani :  
Serial Number: 160,795 : ON PETITION  
Filed: June 19, 1980 :  
For: ANTIHISTAMINIC 11-(4-  
PIPERIDYLIDENE)-5H-  
BENZO-[5.6]-CYCLOHEPTA- :  
[1.2.-6] :

This is a decision on the petition filed May 3, 1989 to correct inventorship under 37 C.F.R. 1.324.

The petition is dismissed.

A petition to correct inventorship as provided by 37 C.F.R. 1.324 requires (1) a petition including a statement of facts verified by the original named inventor or inventors establishing when the error without deceptive intention was discovered and how it occurred, (2) an oath or declaration by each actual inventor or inventors as required by 37 C.F.R. 1.63, (3) the fee set forth in 37 C.F.R. 1.20(b), and (4) the written consent of any assignee. This petition lacks item (1).

The above identified application issued as United States Patent Number 4,282,233 on August 4, 1981. The verified statement does not specifically indicate when the error was discovered. Petitioner states that Mr. Charles V. Magatti discovered "SCH 25548", the compound of claim 9 and that at first there was no interest in this compound because it was believed that the compound had been made before. It was later discovered that the compound was new.

Petitioner was aware of the novelty of "SCH 25548" as of the patent date. It is not clear why there was a delay of over 7 years in filing the petition. A statement of fact explaining when the error was discovered and why the delay in petitioning to change the inventorship is required to establish a showing of reasonable diligence.

Please direct further correspondence with respect to this petition to the Commissioner of Patents and Trademarks, Washington, D. C. 20231, and address the contents of the letter to the attention of Group 120.

Please direct any inquiry concerning this matter to Mary C. Lee at telephone number (703) 657-1750.

Mary C. Lee  
Mary C. Lee  
Supervisory Patent Examiner  
Group 120 - Art Unit 121